

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1519

United States of America,

Appellee,

v.

Howard Andrew Brewer,

Appellant.

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Appeal from the United States
District Court for the Southern
District of Iowa.

[UNPUBLISHED]

Submitted: October 2, 2001

Filed: October 26, 2001

Before McMILLIAN, MORRIS SHEPPARD ARNOLD, and BYE, Circuit Judges.

PER CURIAM.

Howard Andrew Brewer is serving a 360-month term of imprisonment following his methamphetamine and firearm-possession convictions, which this court affirmed. See United States v. Brewer, No. 97-1623 (8th Cir. Feb. 4, 1998) (unpublished per curiam), cert. denied, 525 U.S. 834 (Oct. 5, 1998). In August 2000, Mr. Brewer filed a motion under 28 U.S.C. § 2255, arguing that the rule announced in Apprendi v. New Jersey, 530 U.S. 466 (2000), applied retroactively to his otherwise untimely motion, and that he was sentenced beyond the authorized statutory maximum terms of imprisonment on his drug and gun convictions, where the drug type and quantity were not charged in the indictment, and the jury was not

asked to determine the drug quantity for which he was accountable. The district court¹ denied relief, Mr. Brewer appeals, and we affirm. See United States v. Moss, 252 F.3d 993, 999-1003 (8th Cir. 2001).

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The Honorable Charles R. Wolle, United States District Judge for the Southern District of Iowa.